

BEFORE THE IOWA BOARD OF PHARMACY

RE: Certified Technician Registration of MARLENE MCNAUGHTON Registration No. 29775 Respondent	CASE NO. 2020-0117 NOTICE OF HEARING AND STATEMENT OF CHARGES
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COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Marlene McNaughton ("Respondent"), 4205 Park Ave, E15-88, Des Moines IA 50321, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)"e", and 657 IAC 35.6 and 35.7.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on March 9, 2021, before the Board. The hearing shall begin at 1:30 p.m. Due to the ongoing COVID-19 public health emergency, the hearing will be held electronically via the Zoom platform. At the time of your hearing, use the link zoom.us/join, and enter the meeting ID 874 1000 4077 and the meeting passcode T1f8UP. If you prefer to participate telephonically, please use the phone number 1-312-626-6799 using the meeting ID 847 1000 8044 and the passcode 530552.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 IAC 35.16. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board either by e-mail, if done in compliance with 657 IAC 35.17(2), to Amanda.Woltz@iowa.gov, or by mail/delivery to the following address: Iowa Board of Pharmacy, 400 SW 8th St, Ste E, Des Moines IA 50309.

Presiding Officer. The Board shall serve as presiding officer at the contested case hearing, but the Board hereby delegates to an Administrative Law Judge from the Department of Inspections and Appeals the authority to make initial rulings on prehearing matters, and requests the administrative law judge be present to assist and advise the Board at the contested case hearing.

Hearing Procedures. The procedural rules governing the conduct of the contested case hearing, including prehearing matters, are found at 657 IAC chapter 35. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to

any documents introduced at the hearing. The hearing may be open to the public or closed to the public at your discretion, pursuant to Iowa Code section 272C.6(1) and 657 IAC 35.25(10).

Prosecution. The Office of Attorney General of Iowa is responsible for representing the public interest (the State) in this proceeding. Counsel for the State in this matter is Assistant Attorney General Laura Steffensmeier. Ms. Steffensmeier can be reached by phone at (515) 281-6690. Copies of pleadings should be provided to counsel for the State either by email to Laura.Steffensmeier@ag.iowa.gov, or by mail/delivery to the following address:

Laura Steffensmeier
Assistant Attorney General
Hoover State Office Building—2nd Floor
1305 E Walnut St
Des Moines IA 50319

Communications. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 155A, and 272C (2020).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 155A and 272C, and 657 IAC chapter 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 IAC 35.27.

C. STATEMENT OF CHARGES

COUNT I UNETHICAL CONDUCT

Respondent is charged with unethical conduct or behavior in violation of 657 IAC 3.28(4), and may be disciplined pursuant to Iowa Code section 155A.6A(5) and 657 IAC 36.6(3) and 36.6(21).

D. FACTUAL CIRCUMSTANCES

1. Respondent's Iowa certified pharmacy technician registration number 29775 is currently active through March 31, 2022.

2. Respondent repeatedly took general merchandise from the front-end of a store where she was employed as a pharmacy technician without paying for the items.

3. Respondent denied being involved in any theft during the Board investigation, yet had signed a written confession to her employer.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 IAC 35.24. To cancel a scheduled hearing, an executed settlement agreement must be received by the Board at least three (3) business days prior to the scheduled hearing. If you are interested in pursuing settlement in this matter, please contact the Assistant Attorney General identified above.

F. FINDING OF PROBABLE CAUSE

On January 12, 2021, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).